

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

THOMAS OAKS, JR.)	
)	
<i>Plaintiff</i>)	
)	
vs.)	Civil Action No. <u>3:18CV276-MPM-RP</u>
)	
HUTTIG BUILDING PRODUCTS, INC.)	
JOHN DOE #1 and JOHN DOE #2)	
)	
<i>Defendants</i>)	

NOTICE OF REMOVAL

TAKE NOTICE that, under the authority of 28 U.S.C. §§ 1332, 1441 and 1446, Huttig Building Products, Inc. (“Huttig”) files this Notice of Removal of Civil Action No. CV2018-311, styled *Thomas Oaks, Jr. vs. Huttig Building Products, Inc., John Doe #1 and John Doe #2*, from the Circuit Court of Union County, Mississippi to the United States District Court for the Northern District of Mississippi, Oxford Division. In support of this Notice, Huttig states the following:

1. This lawsuit arises out of events which occurred at Union Lumber Company (“Union Lumber”), a lumber and building supply company in New Albany, Mississippi. Plaintiff alleges that Huttig and various fictitious defendants:

- a) negligently failed to use the degree of care and caution as was required of reasonable and prudent persons under the same or similar circumstances;
- b) negligently loaded the wooden doors onto the trailer;
- c) negligently secured the wooden doors to the trailer; and
- d) other acts of negligence to be shown at a hearing of this cause.¹

¹ See generally, Complaint, Ex. 1.

2. On November 21, 2018, Plaintiff filed his Complaint in the Circuit Court of Union County, Mississippi naming Huttig Building Products, Inc. and fictitious defendants seeking damages in the amount of five hundred thousand dollars (\$500,000.00).²

3. This Court has diversity jurisdiction over this matter under 28 U.S.C. § 1332 because (1) the amount in controversy exceeds \$75,000.00, exclusive of costs and interest, and (2) there is diversity of citizenship between the Plaintiff and Huttig, and the Court may disregard the citizenship of any fictitious defendants for purposes of removal.³ Huttig is a Missouri corporation whose primary place of business is located in St. Louis, Missouri. Plaintiff is a citizen of Mississippi. Therefore, there is complete diversity of the parties and this Court also has diversity jurisdiction under the provisions of 28 U.S.C. § 1332.

4. The timing of this Notice of Removal is proper because Huttig removed the civil action “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”⁴ Plaintiff filed this civil action in the Circuit Court of Union County, Mississippi on November 21, 2018 and provided a copy of said Complaint to counsel for Huttig, R. Jarrad Garner, on December 3, 2018. Therefore, removal is proper under 28 U.S.C. § 1446.

5. For these reasons, this Court has subject matter jurisdiction under either 28 U.S.C. § 1332 and removal is proper under 28 U.S.C. §§ 1441 and 1446. Additionally, venue is proper in the United States District Court for the Northern District of Mississippi, Oxford Division, because that is the district in which Plaintiff filed the state court action.⁵

² Complaint, Ex. 1.

³ 28 U.S.C. § 1441(b)(1).

⁴ 28 U.S.C. § 1446(b).

⁵ 28 U.S.C. § 1446(a), 28 U.S.C. § 104(a)(2).

6. Huttig will, after promptly filing this Notice of Removal, give notice to all parties and the Circuit Clerk of Union County, Mississippi, by filing a copy of this Notice of Removal with the Circuit Clerk of Union County, Mississippi.

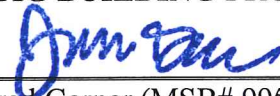
7. Finally, under the provisions of 28 U.S.C. § 1446(a) and L.U. Civ. R. 5(b), a copy of the entire record from the Circuit Court of Union County, Mississippi will be provided within fourteen days of this Notice.

Dated: December 20, 2018.

Respectfully submitted,

HUTTIG BUILDING PRODUCTS, INC.

By:



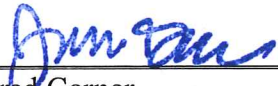
R. Jarrad Garner (MSB# 99584)
Darryl A. Wilson (MSB# 104902)
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Ridgeland, Mississippi 39157
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CERTIFICATE OF SERVICE

I, Darryl A. Wilson, one of the attorneys for Defendant Huttig Building Products, Inc., do hereby certify that I have, this day filed a true and correct copy of the foregoing *Notice of Removal* with the Clerk of Court, and I have caused a true and correct copy to be served by United States mail, postage prepaid and electronic mail to:

Derek Fairchilds
Adam Johnson
NAHON SAHAROVICH & TROTZ, PLC
488 South Mendenhall
Memphis, Tennessee 38117

Dated: December 20, 2018.



R. Jarrod Garner
Darryl A. Wilson